



## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### **Limitations on Terms of Consumer Credit Extended to Service Members and Dependents – Military Lending Act Database; Notice of Database Update**

**AGENCY:** The Office of the Under Secretary of Defense for Personnel and Readiness, Department of Defense (DoD).

**ACTION:** Notice of database update.

**SUMMARY:** The Department of Defense (the Department) is providing notice to the public of a scheduled change to the Military Lending Act (MLA) Database. This update adds cadets and midshipmen attending Military Service Academies of the Armed Forces, who are covered borrowers under the MLA, to the population of covered borrowers identified in the MLA database, thereby correcting an error in the database's original development. The MLA applies to consumer credit extended to members of the Armed Forces and their dependents, as enacted by Congress in the National Defense Authorization Act for Fiscal Year 2013. The MLA statute requires the Secretary of Defense to prescribe regulations to carry out the MLA, and such regulations were published on July 22, 2015. This change to the MLA database is administrative in nature and does not change the current MLA regulation nor does it change the status of the cadets and midshipmen attending the Military Service Academies of the Armed Forces. Therefore, this announcement is not subject to notice and comment rulemaking under the Administrative Procedures Act (APA).

**DATES:** This change to the database will be effective February 1, 2022.

**FOR FURTHER INFORMATION CONTACT:** Andrew Cohen, (703) 692-5286.

**SUPPLEMENTARY INFORMATION:** The MLA statute and regulation applies to consumer credit extended to members of the armed forces and their dependents, otherwise known as a “covered borrower” as enacted by Congress in the National Defense Authorization Act for Fiscal Year 2013. The MLA statute requires the Secretary of Defense to prescribe regulations to carry out 10 U.S.C. 987. The Secretary of Defense prescribed required regulations published in 32 CFR part 232 on July 22, 2015.

In prescribing regulations to implement the statute, the Department provided creditors an optional safe harbor provision if they conclusively determined whether credit is offered or extended to a “covered borrower”, and thus may be subject to 10 U.S.C. 987 and the requirements of this part, by assessing the status of a consumer in accordance with the regulation. *See* 32 CFR 232.5. A “covered borrower” is a consumer who, at the time the consumer becomes obligated on a consumer credit transaction or establishes an account for consumer credit, is a “covered member” or a dependent of a covered member. *See* 32 CFR 323.3. The regulation provides a creditor two methods to conclusively determine whether credit being offered or extended to an individual is a covered borrower for the purpose of the MLA. These methods are:

A. The use of the Department’s MLA database. “[A] creditor may verify the status of a consumer by using information relating to that consumer, if any, obtained directly or indirectly from the database maintained by the Department, available at <https://www.dmdc.osd.mil/mla/welcome.xhtml>. A search of the Department's database requires the entry of the consumer's last name, date of birth, and Social Security number.” *See* 32 CFR 232.5(b)(2)(i)(A). Or,

B. The use of a consumer report from a nationwide consumer reporting agency. “To determine whether a consumer is a covered borrower, a creditor may verify the status of a consumer by using a statement, code, or similar indicator describing that status, if any, contained in a consumer report obtained from a consumer reporting agency that compiles and maintains files

on consumers on a nationwide basis, or a reseller of such a consumer report (as each of those terms is defined in the Fair Credit Reporting Act (15 U.S.C. 1681a) and any implementing regulation (12 CFR part 1022)).” *See* 32 CFR 232.5(b)(2)(ii).

While the cadets and midshipmen of the military academies of the armed forces meet the requirement of being a “member of the armed forces who is serving on – “(i) Active duty pursuant to title 10, title 14, or title 32, United States Code, under a call or order that does not specify a period of 30 days or fewer”, they are currently not included in the population of the MLA database as they should be. This change remediates that condition.

Dated: December 20, 2021.

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